

Environmental Protection Agency

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compliance with Federal emission requirements, regardless of whether the certificate holder owns the vehicle or engine imported under this section.

(9) The name, address and telephone number of the person who the certification holder prefers to receive EPA notification under § 85.1509(i).

(10) For any vehicle imported in accordance with paragraphs (b) through (f) of this section, an attestation by the certificate holder that the vehicle is of the same make and fuel type as the vehicle covered by a qualifying certificate as described in paragraphs (b) through (f) of this section, as applicable.

(11) Such other information as is deemed necessary by the Administrator.

(h) EPA approval for final admission of a vehicle or engine under this section shall be presumed not to have been granted if a vehicle's final FTP results, adjusted by the deterioration factor, if applicable, do not comply with applicable emission standards.

(i) Except as provided in § 85.1509(h), EPA approval for final admission of a vehicle or engine under this section shall be presumed to have been granted should the certificate holder not have received oral or written notice from EPA to the contrary within 15 working days of the date of EPA's receipt of the certificate holder's application under § 85.1509(g). Such EPA notice shall be made to an employee of the certificate holder. If application is made on EPA form, the date of a certified mail receipt shall be deemed to be the official date of notification to EPA. If application is made by submitting the data electronically, the date of acceptance by EPA's computer shall be deemed to be the official date of notification to EPA. During this 15 working day period, the vehicle or engine must be stored at a location where the Administrator will have reasonable access to inspect the vehicle or engine.

(j) *EPA list of certificate holders ineligible to import vehicles for modification/test.* EPA shall maintain a current list of certificate holders who have been determined to be ineligible to import vehicles or engines under this section. Such determinations shall be made in

accordance with the criteria and procedures in § 85.1513(e) of this subpart.

(k) *Inspections.* Prior to final entry, vehicles or engines imported under this section are subject to special inspections as described in § 85.1506 with these additional provisions:

(1) If a significant number of vehicles imported by a certificate holder fail to comply, in the judgment of the Administrator, with emission requirements upon inspection or retest, or if the certificate holder fails to comply with any provision of these regulations that pertain to vehicles imported pursuant to § 85.1509, the certificate holder may be placed on the EPA list of certificate holders ineligible to import vehicles under this section as specified in paragraph (j) of this section and § 85.1513(e);

(2) Individual vehicles or engines which fail an FTP retest or inspection must be repaired and retested, as applicable, to demonstrate compliance with emission requirements before final admission.

(3) Unless otherwise specified by EPA, the costs of all retesting under this subsection, including transportation, shall be borne by the certificate holder.

(l) *In-Use inspection and testing.* Vehicles or engines imported under this section may be tested or inspected by EPA at any time during the vehicle's or engine's useful life in accordance with § 85.1508 (a) and (b). If, in the judgment of the Administrator, a significant number of properly maintained and used vehicles or engines imported by the certificate holder fail to meet emission requirements, the name of the certificate holder may be placed on the EPA list of certificate holders ineligible to import vehicles under the modification/test provision as specified in paragraph (j) of this section and § 85.1513(e).

§ 85.1510 Maintenance instructions, warranties, emission labeling and fuel economy requirements.

The provisions of this section are applicable to all vehicles or engines imported under the provisions of §§ 85.1505 and 85.1509.

(a) *Maintenance Instructions.* (1) The certificate holder shall furnish to the

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purchaser or to the owner of each vehicle or engine imported under § 85.1505 or § 85.1509 of this section, written instructions for the maintenance and use of the vehicle or engine by the purchaser or owner. Each application for final admission of a vehicle or engine shall provide an attestation that such instructions have been or will be (if the ultimate producer is unknown) furnished to the purchaser or owner of such vehicle or engine at the time of sale or redelivery. The certificate holder shall maintain a record of having furnished such instructions.

(2) For each vehicle or engine imported under § 85.1509, the maintenance and use instructions shall be maintained in a file containing the records for that vehicle or engine.

(3) Such instructions shall not contain requirements more restrictive than those set forth in 40 CFR part 86, subpart A or subpart S, as applicable (Maintenance Instructions), and shall be in sufficient detail and clarity that an automotive mechanic of average training and ability can maintain or repair the vehicle or engine.

(4) Certificate holders shall furnish with each vehicle or engine a list of the emission control parts, and emission-related parts added by the certificate holder and the emission control and emission related parts furnished by the OEM.

(b) *Warranties.* (1) Certificate holders shall provide to vehicle or engine owners emission warranties identical to those required by sections 207 (a) and (b) of the Act and 40 CFR part 85, subpart V. The warranty period for each vehicle or engine shall commence on the date the vehicle or engine is delivered by the certificate holder to the ultimate purchaser or owner.

(2) Certificate holders shall ensure that these warranties:

(i) Are insured by a prepaid mandatory service insurance policy underwritten by an independent insurance company;

(ii) Are transferable to each successive owner for the periods specified in sections 207 (a) and (b); and

(iii) Provide that in the absence of a certificate holder's facility being reasonably available (i.e., within 50 miles) for performance of warranty repairs,

such warranty repairs may be performed anywhere.

(3) Certificate holders shall attest in each application for final admission that such warranties will be or have been provided. Copies of such warranties shall be maintained in a file containing the records for that vehicle or engine.

(c) *Emission labeling.* (1) The certificate holder shall affix a permanent legible label in a readily visible position in the engine compartment. The label shall meet all the requirements of part 86 and shall contain the following statement "This vehicle or engine was originally produced in (month and year of original production). It has been imported and modified by (certificate holder's name, address and telephone number) to conform to U.S. emission regulations applicable to the (year) model year." If the vehicle or engine is owned by the certificate holder at the time of importation, the label shall also state "this vehicle or engine is warranted for five years or 50,000 miles from the date of purchase, whichever comes first." If the vehicle or engine is not owned by the certificate holder at the time of importation, the label shall state "this vehicle or engine is warranted for five years or 50,000 miles from the date of release to the owner, whichever comes first." For vehicles imported under § 85.1509, the label shall clearly state in bold letters that "this vehicle has not been manufactured under a certificate of conformity but meets EPA air pollution control requirements under a modification/test program." In addition, for all vehicles, the label shall contain the vacuum hose routing diagram applicable to the vehicles.

(2) As part of the application to the Administrator for final admission of each individual vehicle or engine under § 85.1509, the certificate holder shall maintain a copy of such label for each vehicle or engine in a file containing the records for that vehicle or engine. Certificate holders importing under §§ 85.1505 or 85.1509 shall attest to compliance with the above labeling requirements in each application for final admission.

(d) *Fuel economy labeling.* (1) The certificate holder shall affix a fuel economy label that complies with the requirements of 40 CFR part 600, subpart D.

(2) For purposes of generating the fuel economy data to be incorporated on such label, each vehicle imported under § 85.1509 shall be considered to be a separate model type.

(3) As part of the application to the Administrator for final admission of each individual vehicle or engine imported under § 85.1509, the certificate holder shall maintain a copy of such label for each vehicle or engine in a file containing the records for that vehicle or engine. In each application for final admission of a vehicle or engine under §§ 85.1505 or § 85.1509, the certificate holder shall attest to compliance with the above labeling requirements.

(e) *Gas guzzler tax.* (1) Certificate holders shall comply with any applicable provisions of the Energy Tax Act of 1978, 26 U.S.C. 4064, for every vehicle imported under § 85.1505 and § 85.1509.

(2) For vehicles not owned by the certificate holder, the certificate holder shall furnish to the vehicle owner applicable IRS forms (currently numbered 720 (Quarterly Federal Excise Tax) and 6197 (Fuel Economy Tax Computation Form)) which relate to the collection of the gas guzzler tax under the Energy Tax Act of 1978, 26 U.S.C. 4064.

(3) As part of the certificate holder's application to EPA for final admission of each vehicle imported under § 85.1509, the certificate holder shall furnish any fuel economy data required by the Energy Tax Act of 1978, 15 U.S.C. 4064.

(f) *Corporate Average Fuel Economy (CAFE).* (1) Certificate holders shall comply with any applicable CAFE requirements of the Energy Policy and Conservation Act, 15 U.S.C. 2001 et seq., and 40 CFR part 600, for all vehicles imported under §§ 85.1505 and 85.1509.

[52 FR 36156, Sept. 25, 1987, as amended at 64 FR 23919, May 4, 1999]

§ 85.1511 Exemptions and exclusions.

(a) Individuals, as well as certificate holders, shall be eligible for importing vehicles into the United States under the provisions of this section, unless otherwise specified.

(b) Notwithstanding any other requirements of this subpart, a motor vehicle or motor vehicle engine entitled to one of the temporary exemptions of this paragraph may be conditionally admitted into the United States if prior written approval for such conditional admission is obtained from the Administrator. Conditional admission shall be under bond. A written request for approval from the Administrator shall contain the identification required in § 85.1504(a)(1) (except for § 85.1504(a)(1)(v)) and information that indicates that the importer is entitled to the exemption. Noncompliance with provisions of this section may result in the forfeiture of the total amount of the bond or expropriation of the vehicle or engine. The following temporary exemptions are permitted by this paragraph:

(1) *Exemption for repairs or alterations.* Owners of fleet vehicles or engines may import such vehicles or engines solely for purposes of repairs or alterations. Such vehicles or engines may not be registered or licensed in the United States for use on public roads and highways. They may not be sold or leased in the United States and must be exported upon completion of the repairs or alterations.

(2) *Testing exemption.* Testing vehicles or engines may be imported by any person subject to the requirements of 40 CFR 85.1705 and 85.1708. Test vehicles or engines may be operated on and registered for use on public roads or highways provided that the operation is an integral part of the test. The exemption shall be limited to a period not exceeding one year from the date of importation unless a request is made by the appropriate importer concerning the vehicle in accordance with § 85.1705(f) for a subsequent one-year period.

(3) *Precertification exemption.* Prototype vehicles for use in applying to EPA for certification may be imported by independent commercial importers subject to applicable provisions of 40 CFR 85.1706 and the following requirements:

(i) No more than one prototype vehicle for each engine family for which an independent commercial importer is seeking certification shall be imported